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9 MANDY TIGERT

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**

12 **MANDY TIGERT,**

13 Plaintiff,

14 **vs.**

15 **PERFORMANT RECOVERY,**
16 **INC.; and DOES 1 through 10,**
17 **inclusive,**

18 Defendant.

Case No.:

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

(Unlawful Debt Collection Practices)

Demand Does Not Exceed \$10,000

19 **COMPLAINT**

20 ***I. INTRODUCTION***

- 21 1. This is an action for statutory damages brought by Plaintiff, Mandy Tigert,
22 an individual consumer, against Defendant, Performant Recovery, Inc., for
23 violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*
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1 (hereinafter “FDCPA”), which prohibits debt collectors from engaging in
2 abusive, deceptive, and unfair practices.

3 ***II. JURISDICTION***

- 4 2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. §
5 1337. Venue in this District is proper in that the Defendant transacts
6 business here.
7

8 ***III. PARTIES***

- 9 3. Plaintiff, Mandy Tigert, is a natural person with a permanent residence in
10 Conway, Faulkner County, Arkansas 72034.
11
- 12 4. Upon information and belief, the Defendant, Performant Recovery, Inc., is a
13 corporation engaged in the business of collecting debt in this state and in
14 several other states, with its principal place of business located at 333 North
15 Canyons Parkway, Suite 100, Livermore, Alameda County, California
16 94551. The principal purpose of Defendant is the collection of debts in this
17 state and several other states, and Defendant regularly attempts to collect
18 debts alleged to be due to another.
19
- 20 5. Defendant is engaged in the collection of debts from consumers using the
21 mail and telephone. Defendant regularly attempts to collect consumer debts
22 alleged to be due to another. Defendant is a “debt collector” as defined by
23 the FDCPA, 15 U.S.C. § 1692a(6).
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IV. FACTUAL ALLEGATIONS

6. The debt that Defendant is attempting to collect on is for a private loan.
7. On or about May 8, 2013, Defendant calling from 209-858-3606, in connection with the collection of the alleged debt, contacted Plaintiff's friend at phone number 501-589-4744, who is not a co-signer on the alleged debt, and informed him that Plaintiff had applied for something and requested he take their number and ask Plaintiff to return the call.
8. On or about May 12, 2013, which was during the first thirty (30) days of communicating with Plaintiff, Defendant calling from 209-858-3606, in connection with the collection of the alleged debt, spoke to client on her cell phone (501-504-9914) and demanded payment on the alleged debt without also informing Plaintiff that Plaintiff could dispute the validity of the alleged debt and thereby overshadowed the Plaintiff's right to dispute the validity of the debt.
9. The natural consequences of Defendant's statements and actions were to produce an unpleasant and/or hostile situation between Defendant and Plaintiff.
10. Defendant utilized unfair and unconscionable means to collect on Plaintiff's alleged debt, by lying to and misleading Plaintiff.

V. CLAIM FOR RELIEF

11. Plaintiff repeats and realleges and incorporates by reference to the foregoing paragraphs.

12. Defendants violated the FDCPA. Defendants' violations include, but are not limited to, the following:

(a) Defendant violated §1692c(b) of the FDCPA by communicating with a third party in connection with the collection of the alleged debt without the consent of the Plaintiff and the contact was not in a manner covered by §1692b of the FDCPA; and

(b) Defendant violated §1692g(b) of the FDCPA by overshadowing or being inconsistent with the disclosure of the consumer's rights to dispute the debt or request the name and address of the original creditor.

13. Defendant's acts as described above were done intentionally with the purpose of coercing Plaintiff to pay the alleged debt.

14. As a result of the foregoing violations of the FDCPA, Defendant is liable to the Plaintiff, Mandy Tigert, for declaratory judgment that Defendant's conduct violated the FDCPA, actual damages, statutory damages, and costs and attorney fees.

1 **WHEREFORE**, Plaintiff respectfully requests that judgment be entered against
2 Defendant, Performant Recovery, Inc., for the following:

- 3 A. Statutory damages pursuant to 15 U.S.C. § 1692k.
4 B. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k.
5 C. Awarding Plaintiff any pre-judgment and post-judgment interest as
6 may be allowed under the law.
7 D. For such other and further relief as the Court may deem just and
8 proper.
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11
12 **DEMAND FOR JURY TRIAL**

13 Please take notice that Plaintiff, Mandy Tigert, demands trial by jury in this action.
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15 Respectfully submitted this 12th day of May, 2014,
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17 **PRICE LAW GROUP APC**

18 By: /s/ G. Thomas Martin, III

19 G. Thomas Martin, III

20 Attorney for Plaintiff
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